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William Blanc

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HARNESS, DICKEY & PIERCE, P.L.C.  
P.O. BOX 828  
BLOOMFIELD HILLS, MI 48303

EXAMINER

LAZORCIK, JASON L

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## **RESPONSE TO REQUEST FOR RECONSIDERATION**

### **Rejection of claims under 35 U.S.C. §112, first paragraph**

In response to the rejection of claims 1-3 under 35 U.S.C. §112, first paragraph, Applicant argues that the limitation requiring that "each of said plurality of support brackets extending inwardly toward but not contacting the other of said pair of longitudinally extending tubular members" finds support in the specification Figure 1. Applicant's arguments on this matter have been fully considered and are persuasive. The rejection of claims 1-3 under 35 U.S.C. §112, first paragraph has been withdrawn.

### **Rejection of claims under 35 U.S.C. §103(a)**

In response to the rejection of claims 1 and 4 under 35 U.S.C. §103(a) as set forth in the office action dated October 10, 2007, Applicant presents the following arguments:

Applicant first points to a typographical error in the Final Office action dated October 10, 2007. Applicant states that in said communication the Garbin element (12) was held equivalent to the claimed longitudinally extending member and element (14) was identified as the transversely extending member. Applicant further notes that the Examiner later identified element (14) as the longitudinally extending member.

The Examiner acknowledges this obvious and inadvertent labeling error and is in agreement with Applicants position. Specifically, element (14) of the Garbin reference

should have been identified as the longitudinally extending member, and element (12) of the Garbin reference should have been identified as the transversely extending member.

With respect to the particular grounds of rejection, Applicant takes issue with the Examiners interpretation of the Garbin disclosed apparatus structure. Specifically, Applicant argues that in the rejection, the Examiner stated that the stationary members (24) are coupled to the longitudinally extending members (14) by support brackets (16, 36). Applicant takes issue with the Examiners position stating that the stationary members are supported by posts (18) and not by hinge pins (36).

The Examiner acknowledges this obvious and inadvertent labeling error and is in agreement with Applicants position. Specifically, it is evident from the plan view presented in Figure 1 and the Garbin disclosure (Column 3, lines 58-63) that element (36) is used to support the lever arm (38) and that the four posts (18) are implemented as a means to support the centrally stationary members (24). In the Final Office Action, the support brackets should have been identified as collective elements (16) and (18) and not as elements (16, 36) as was presented. This labeling error notwithstanding, it is the Examiners position that the function and fundamental structural interrelationship of elements in the prior art apparatus remain substantially equivalent to that set forth in the previous Office Action.

Having acknowledged the above noted typographical errors, Applicant argues that the claimed invention is distinguished over the prior art apparatus in that the Garbin reference "requires additional members to support the center mold sections".

The Examiner is not persuaded

In response, it is not evident to the Examiner which "additional members" Applicant is referencing. Specifically, Applicants note that "the center mold sections 24 of Garbin are supported by posts 18" and it is further evidenced from the Garbin disclosure that a total of four such posts are implement in this function (Column 3, lines 58-63). It would appear evident from the application Figure 1 that four support members are likewise used in Applicants preferred embodiment for supporting the pair of stationary members (24).

Since both the prior art and Applicants claimed invention utilize the same number of support members (e.g. four members) to support the center mold sections, Applicants argument constitutes a distinction without a difference. Alternately, said arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Finally, Applicant argues that element (48) of the Garbin apparatus has been improperly construed as a support bracket. Specifically, Applicant argues that element (48) "functions merely as a device used to prevent over rotation of the end mold sections (40) and (42)".

Although Applicant acknowledges that the Garbin element (48) serves as a “stop”, Applicant argues that such a stop member is not appropriately construed as a “support” member. The Examiner is hard pressed to discern any substantive distinction between the prior art function of element (48) as a rotational stop and the claimed bracket. Specifically, the term support is conventionally understood to mean “to bear or hold up (a load, mass, structure, part, etc.); serve as a foundation for” (support. (n.d.).

*Dictionary.com Unabridged (v 1.1)*. Retrieved February 15, 2008, from Dictionary.com website: <http://dictionary.reference.com/browse/support>).

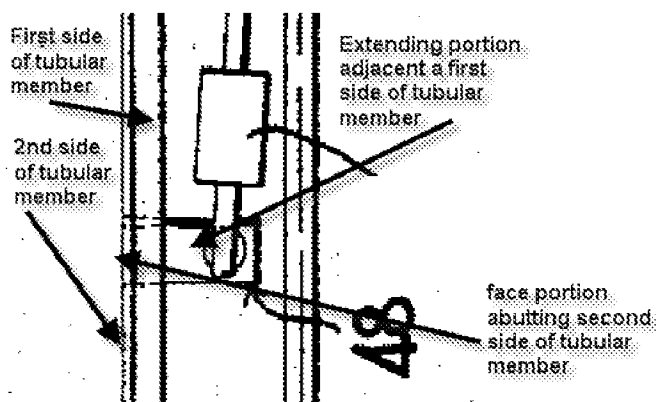
It follows, in accordance with the broadest reasonable interpretation of the term, that the prior art element (48) is appropriately construed to function as a support for other elements of the apparatus (e.g. at least elements 40 and 42). Therefore on this matter, Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Applicants further argue that the Garbin element (48) fails to teach (1) an extending portion adjacent a first side or (2) a face portion abutting a second side of one of the pair of longitudinally extending members. The Examiner disagrees.

With reference to the following annotated excerpt figure 2 from the Garbin reference, it should appear evident to Applicant that the Garbin element (48) in fact does display the contested features. It is specifically noted that the Garbin support

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frame displays an "L" shaped cross section with a lower or bottom surface and an outer vertically extending surface. Figure 2 in Garbin clearly shows that element (48) has an extending portion extending inwardly in the direction of the other extending member of the support frame and which extending portion presents a face in direct contact with the bottom surface of the support frame members. This support bracket (48) further presents a terminal surface whose face is in abutting relationship with the vertically extending surface of the extending member. In view of the foregoing, Applicants arguments alleging that the prior art fails to show certain claimed features are held to be unpersuasive.



Although it is believed that the forgoing discussion represents a full and complete response to Applicants presented arguments, it may prove instructive at this juncture to review the scope and content of the prior art teachings in relation to Applicants claimed invention. Specifically with respect to independent claims 1 and 4,

1) Garbin teaches a rectangular support frame for supporting a glass ring bending mold and Reese teaches that it is known to construct such a frame with members having a square-shaped cross section.

2) Applicant's admitted prior art reveals that it would be considered merely conventional in the art to include a plurality of cross members to reinforce the support frame.

3) Regarding the ring mold structure, Garbin instructs a particular mold design comprising a pair of centrally stationary members coupled in fixed relationship to the support frame and a pair of outboard movable members likewise coupled to the support frame. It is evident from the Garbin plan and elevational views that both the central stationary members and the outboard movable members are positioned inboard of and offset from the support frame.

It follows that the Garbin and Reese references explicitly disclose essentially every element of Applicants claimed invention. In recent communications, Applicant has alleged a patentable distinction exists between the claimed invention and that of the prior art based principally upon the details of the brackets used to mount the ring mold to the supporting frame. On this matter it is the Examiners position that Applicants claimed invention does not constitute a patentable distinction over the prior art.

Specifically, Garbin and Reese both teach that it is known to utilize a plurality of support brackets to fix the molding ring to the support frame. The Garbin apparatus specifically discloses that these support brackets may extend inward from the frame in such a manner as to mount the ring mold in an "inboard and offset" relationship to said support frame.

Though Applicant may allege a patentable distinction, absent any compelling evidence of unexpected results, simply exchanging one support bracket design for another constitutes no more than a "simple substitution of one known element for another to obtain a predictable result". Specifically, the particular bracket utilized is not construed to appreciably alter the functional behavior of the claimed ring mold. In summary, prior art mounting brackets and the claimed support brackets are held to be functional equivalents with respect to the ring mold.

Further, it is evident from the cited prior art that ring molds of the type presently claimed have been demonstrated in the art. The recent decision in *KSR International Co. v. Teleflex Inc.* determined that the known work in one field of endeavor may prompt variations of it for use in either the same field or in a different one based upon design incentives or other market forces if the variations are predictable to one of ordinary skill in the art.

Applying this rationale to the instant case; it would have been well within the purview of a skilled practitioner in the arts to specify or design variations upon the mounting bracket which would achieve a predictable result, namely coupling the ring mold to a support frame. Absent any evidence of unexpected results, such a variation would be considered a merely trivial extension over the prior art of record.

**/Steven P. Griffin/  
Supervisory Patent Examiner, Art Unit 1791**



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